DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

April 2, 2010

MEMORANDUM FOR MANAGER, EO DETERMINATIONS

FROM: Robert Choi
Director, EO Rulings and Agreements

SUBJECT: Application of § 501(q) to Organizations Assisting Homeowners Who Are at Risk of Foreclosure

This memorandum provides assistance regarding the possible application of § 501(q) of the Internal Revenue Code to existing organizations exempt from federal income tax under § 501(c)(3) or (4) and applicants for tax-exempt status under § 501(c)(3) or (4) that are engaging in, or are proposing to engage in, activities that assist homeowners who are at risk of foreclosure. The assistance is set forth in the attachment to this memorandum, as described below:

- Program Manager Technical Advice – Application of Section 501(q) to Organizations Assisting Homeowners Who Are at Risk of Foreclosure

The Pension Protection Act of 2006 (Public Law 109-280) enacted special rules under § 501(q) to credit counseling organizations that are otherwise exempt from federal income tax under § 501(c)(3) or (4). These rules are also applicable to organizations engaging in, or proposing to engage in, activities that assist homeowners who are at risk of foreclosure, assuming they provide financial education to the general public and/or financial counseling, and otherwise meet the requirements under § 501(c)(3) or (4).

This advice provides for the following conclusions:

1. Organizations that provide educational information on financial topics or provide financial counseling to homeowners who are at risk of foreclosure are providing “credit counseling services” within the meaning of § 501(q)(4)(A). Furthermore, an organization that engages in such activities as a substantial purpose must, in addition to complying with the requirements of § 501(c)(3) or (4), comply with the provisions of § 501(q).

2. Organizations that assist homeowners who are at risk of foreclosure by providing financial counseling and/or providing educational information to the general public on financial topics as a substantial purpose are not in violation of the

prohibition contained in § 501(q)(1)(A)(ii) regarding the "negotiating the making of a loan," where the organizations contact holders or servicers of homeowners' mortgages to try to modify the terms of such mortgages so that individuals might avoid foreclosure.

The determination of whether an organization is subject to, and meets the requirements of, § 501(q) will depend on all the facts and circumstances of each particular case.